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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/645,609

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EXAMINER

GREIMEL, JOCELYN

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/645,609	<b>Applicant(s)</b> LEE ET AL.	
	<b>Examiner</b> JOCELYN GREIMEL	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-6, 8-17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This communication is in response to Applicant's Amendments and Remarks filed 17 July 2008.

### ***Status of Claims***

Claims 1-3, 5-6, 8-17 and 19-24 are currently pending. Claims 4, 7, and 18 have been cancelled. Claims 1, 8, 10, 17, 19 and 22 are currently amended. Claims 1, 17 and 22 are independent claims.

### ***Claim Objections***

Claim 17 is objected to because of the following informalities: the claim reads "said supporting informant." The claim has been evaluated as "said supporting information." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Art Unit: 3693

Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 17 (and related dependent claims) recites a process comprising the steps of scaling, providing, displaying, enabling and generating. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1-3, 5-6, 8-17 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (US Patent Pub. 2002/0032621 A1) in view of Linden et al. (US Patent Pub. 2002/0198882 A1).** In reference to claims 1, 17 and 22-23, Smith discloses a method, system and apparatus for auctions, including:

scaling a plurality of bids and items displayed on a display window (0017; 0049-0050, GUI; 0063+); and

scaling viewable objects representing said bids and items such that as a number of said bids and items increases, a size of said viewable objects representing said bids and items decreases (0063+);

displaying supporting information including any of items, bids, constraints, analysis, results (0041-0042; 0044-0045; 0053-0056; 0063-0066), and optimal solutions on said displays, to allow interactive selection of an optimal solution from the bid evaluation system (0053-0056; 0063-0066), said supporting information providing a visualization of how the optimal solution satisfies a demand for each item and each constraint thereon (0053-0056; 0063-0066);

Art Unit: 3693

enabling a user to dynamically update auction parameters including, any of items in the auction, bundle bids trader consideration, changing constraints, and a reserve price (0044-0045), and

generating the ad hoc and optimal solutions iteratively for exploratory analysis (0041-0042; 0044-0045; 0053-0056; 0063-0066).

Smith does not disclose the above method, system and apparatus, including:

providing a real-time recommendation window for providing at least one recommendation on what action to take next in generating an ad hoc solution.

However, Linden discloses a method, system and apparatus for web-based application, including:

providing a real-time recommendation window for providing at least one recommendation on what action to take next in generating an ad hoc solution (0236+). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to have modified the method of Smith to include providing recommendations in a real-time recommendation window as it would provide the user with easier access to the information, thereby making the system more user-friendly.

In reference to dependent claims 2-3, 5-6, 8-16 and 19-21, the combination of Smith and Linden (as detailed in the evaluation above), disclose a method, system and apparatus for auctions as above and including (claims of similar substance grouped together) Smith discloses:

Art Unit: 3693

- a. wherein said display scales viewable objects representing said bids and items, such that as a number of bids and items increases, a size of said viewable objects representing said bids and objects decreases (0063-0066);
- b. wherein each of said bids and items is displayed, regardless of a number of said bids and items (0045);
- c. wherein said display displays supporting information including any of items, bids, constraints, analysis, and results, and candidate optimal solutions on said display, to allow interactive selection of an optimal solution from the bid evaluation system, said supporting information providing a visualization of how the optimal solution satisfies a demand for each item and each constraint thereon (0045; 0055);
- d. wherein said display comprises a user interface for presenting solutions and supporting information in an intuitively understandable visual representation, and for providing visual operations on graphical entities of the visual representation (0063-0066);
- e. wherein said display includes: a dynamic mechanism for enabling a user to dynamically update auction parameters including any of items in the auction, bundle bids under consideration, and changing constraints and a reserve price; and wherein the dynamic mechanism generates the ad hoc and optimal solutions iteratively for exploratory analysis (0017, 0049-0050; 0063-0066);

Art Unit: 3693

- f. wherein said display includes a mechanism for enabling a user to generate interactively an optimal solution for an auction after pre-assigning at least one bundle bid to a winning bid pool (0046+);
- g. further comprising a user input device coupled to said display, wherein said display includes a mechanism for enabling a user to enforce said at least one recommendation by using said user input device (0046; 0049-0050);
- h. wherein said display comprises an iconic user interface including an analysis window which allows said scaling (0049-0050);
- i. wherein said iconic user interface further comprises any of an item list window, a bid list window, a constraint window, a result window, a result detail window, a recommendation window, an item detail window, and a bid detail window interactively coupled to said analysis window (0045-0049);
- j. wherein said analysis window displays a bundle demand and a set of submitted bundle bids, wherein said item list window displays a list of all items the user desires to procure and a demanded amount for each item, said item list window allowing the user to any of select and de-select at least one item that the user desires to any of include and exclude, respectively, in the analysis window, and wherein, as the bundle demand in the analysis window is updated by the user's item selection operation in the item list window, the set of bundle bids displayed in the analysis window is updated (0063-0072);
- k. further comprising a pointing device, wherein said item detail window is openable from the item list window by using an operation of said pointing device,



Art Unit: 3693

said item detail window for displaying information about a particular item, wherein said bid list window displays a list of all the submitted bundle bids and allows the user to any of select and de-select at least one bid that the user wants to any of include and exclude, respectively, in the analysis window, and wherein said bid detail window is openable from the bid list window by using an operation of said pointing device, and displays various information about a particular bid, including a bid thumbnail image, a supplier information, and a product information bundled in a bid (0045, "any information or data related to the bidders"; 0049+, online auctions);

I. wherein the constraint window displays a list of constraints applicable to the current auction setting presented in the analysis window, and enables the user to dynamically update values of constraints and apply the values to the bid evaluation in the analysis window, wherein the result window groups and displays, in a hierarchical tree structure, solutions for various combinatorial auction bid evaluation problems set up in the analysis window, so as to classify different solutions hierarchically in the result window, wherein a new bid evaluation problem is created by changing the values in the item list window, the bid list window, and the constraint window (0044+, "revise their price quotes to and place additional bids to remain competitive"); wherein when a bid evaluation problem is determined in the analysis window, said bid evaluation problem is selectively added to the result window (0044+, market feedback);

Art Unit: 3693

m. wherein the result detail window is openable from the result window by using said pointing device to present detailed information on a particular solution, wherein the recommendation window provides at least one recommendation for each iteration in generating an ad hoc solution for a combinatorial auction bid evaluation problem, to allow said user to directly enforce the recommendation in the recommendation window, and wherein if a predetermined supplier makes a bid, then said bid by said predetermined supplier is automatically selected (0065+).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3693

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELYN GREIMEL whose telephone number is (571)272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

Jocelyn Greimel  
Examiner, Art Unit 3693

October 31, 2008

Application/Control Number: 10/645,609  
Art Unit: 3693

Page 11